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11 *Kohl's Department Stores, Inc.*

12 **UNITED STATES DISTRICT COURT**
13 **DISTRICT OF NEVADA**

14 KIRBY SPENCER, individually and
on behalf of all others similarly
15 situated,

16 Plaintiff,

17 v.

18 KOHL'S DEPARTMENT STORES,
19 INC.,

20 Defendant.

Case No. 2:14-cv-01646-RFB-DJA

**JOINT STATUS REPORT AND
STIPULATION AND
ORDER TO EXTEND DEADLINES
FINAL REQUEST**

21 Plaintiff Kirby Spencer ("Plaintiff"), by and through his attorneys Craig K.
22 Perry & Associates and McGuire Law, P.C., and Defendant Kohl's Department
23 Stores, Inc. ("Kohl's"), by and through its attorneys Ballard Spahr, LLP and Kelley
24 Drye & Warren LLP, pursuant to this Court's August 28, 2019 Order granting the
25 Parties' Stipulation to Amend Scheduling Order and Extend Deadlines (ECF No.
26 115), and pursuant to Local Rules 6-1, 6-2, 7-1, and 26-4, and Fed. R. Civ. P. 16,
27 hereby submit this joint status report and stipulation to extend deadlines:
28

1 1. Plaintiff commenced this action on October 7, 2014. (ECF No. 1).

2 2. Following two stays of this matter (ECF Nos. 63, 83, 84), on July 12,
3 2018, this Court entered an Order ordering the Parties to submit a proposed
4 discovery plan and scheduling order and for Kohl's to file a dispositive motion
5 relating to the D.C. Circuit's decision in *ACA Int'l v. Fed. Commc'ns Comm.*, No.
6 15-1211 (D.C. Cir. 2015) by July 26, 2018 (ECF No. 84), a deadline that was
7 extended to August 16, 2018, pursuant to stipulation by the Parties (ECF No. 86).

8 3. On March 13, 2019, the Court denied Kohl's pending motion for
9 judgment on the pleadings following the D.C. Circuit's decision in *ACA Int'l*, or in
10 the alternative, for a stay (ECF No. 104).

11 4. On April 1, 2019, the Court entered the Parties' proposed Joint
12 Discovery Plan and Amended Scheduling Order (ECF No. 106), setting a discovery
13 cutoff of June 27, 2019, with Plaintiff's motion for class certification due on
14 October 8, 2019, and any dispositive motions due no later than 60 days after the
15 Court's ruling on the motion for class certification.

16 5. On July 3, 2019, the Court entered the Parties' first Stipulation to
17 Amend Scheduling Order and Extend Deadlines, extending the fact discovery cutoff
18 until August 27, 2019 (ECF No. 112).

19 6. On August 28, 2019, the Court entered the Parties' second Stipulation
20 to Amend Scheduling Order and Extend Deadlines, extending the fact discovery
21 cutoff until September 24, 2019, with the Parties to file a Joint Status Report by
22 October 1, 2019 (ECF No. 115).

23 7. Since the Court's entry of the Parties' second stipulation, the Parties
24 have jointly stayed efforts to resolve the remaining discovery disputes, as they have
25 continued their settlement negotiations. The Parties submit that, while they have
26 successfully narrowed down the remaining issues, they require further time to
27 finalize their settlement discussions.

28 8. Accordingly, Counsel for Plaintiff and for Defendant have met and

1 conferred and respectfully request that the Court grant a *final* continuance of the
2 deadline to complete merits discovery until December 6, 2019, with the Parties to
3 complete all expert discovery by January 30, 2020, and Plaintiff to file his motion
4 for class certification by February 20, 2020.

5 9. This Stipulation is made in good faith and not for the purpose of delay
6 or for any other improper purpose. No trial date has yet been set in this case and no
7 motions are currently pending.

8 WHEREFORE, Plaintiff Kirby Spencer and Defendant Kohl's Department
9 Stores, Inc. hereby stipulate and respectfully request that the Court enter an Order
10 extending the fact discovery cut-off until December 6, 2019, setting January 30,
11 2020 as the deadline to complete expert discovery, and February 20, 2020 as the
12 deadline for Plaintiff's motion for class certification.

13
14 Dated: October 3, 2019

Respectfully submitted,
MCGUIRE LAW, P.C.

15 By: /s/ Evan M. Meyers
16 Evan M. Meyers (admitted *pro hac vice*)
17 Attorneys for Plaintiff Kirby Spencer

18 Dated: October 3, 2019

KELLEY DRYE & WARREN LLP

19 By: /s/ Lauri A. Mazzuchetti
20 Lauri A. Mazzuchetti (admitted *pro hac vice*)
21 Attorneys for Defendant
22 Kohl's Department Stores, Inc.

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24 **IT IS SO ORDERED.**

25 
26 _____
UNITED STATES MAGISTRATE JUDGE

27 DATED: October 8, 2019
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CERTIFICATE OF SERVICE

I hereby certify that on October 3, 2019, I electronically filed the foregoing *Joint Status Report and Stipulation and [Proposed] Order to Extend Deadlines* with the Clerk of the Court using the CM/ECF system. Notice of this filing is sent to all counsel of record by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/ Evan M. Meyers